IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Criminal O.P.No.22482 of 2016

M.Lavanya
Assistant Superintendent of Post Office
Erode South Sub-Division,
Erode - 638 003. ... Petitioner

Vs.

1. State Rep. By the Superintendent of Police,
   Erode,
   Erode District.

2. The Inspector of Police,
   District Crime Branch,
   Erode,
   Erode District.

3. The Inspector of Police,
   Central Bureau of Investigation,
   Anti-Corruption Branch,
   Chennai.

4. N.P.Saravanan

5. N.Mayilsamy

6. R.Subramanian

7. R.Karthikeyan ... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code to transfer the Crime No.11/2016 on the file of District Crime Branch, Erode to the file of Inspector of Police, CBI, ACB, Chennai to investigate along with the Crime No.RC MA 1 2016 A 0022 pending on the file of Inspector of Police, CBI, ACB, Chennai.

For Petitioner : M/s.V.P.Sengottuvel

For Respondents: Mr.P.Govindarajan,
Additional Public Prosecutor for R1

Mr.K.Srinivasan,
Special Public Prosecutor
for CBI for RR2 & 3

Mr.P.Kannankumar for RR5 to 7
No appearance for R4

O R D E R

This petition is being filed under Section 482 of Criminal Procedure Code for transferring the case in Crime No.11/2016 on the file of the District Crime Branch, Erode to the file of Inspector of Police, CBI, ACB, Chennai to investigate along with the Crime No.RC MA 1 2016 A 0022 pending on the file of Inspector of Police, CBI, ACB, Chennai.

2. The main contention of the petitioner is that a fraud was unearthed during June 2016 that 4th respondent – N.P.Saravanan, who was working as Sub-Post Master, Sivagiri Sub-Post Office along with the other persons namely 5th respondent N.Myilsamy, Gramin Dak Sevak Main Deliverer, Sivagiri SO, 6th Respondent – R.Subramanian Gramin Dak Sevak, Branch Post Master, Thandampalayam Branch Post Office and 7th Respondent – R.Karthikeyan Gramin Dak Sevak Mail Deliverer, Minnapalayam Branch Post Office and other persons cheated the customers of the Post Office, Sivagiri Post Office, by closing 11 number of Monthly Income Scheme (MIS) accounts without the knowledge of depositors using the forged signature of the customers and withdrew an amount of Rs.3,40,000/-.

3. The petitioner herein on 23.06.2016 made a complaint to the 1st respondent herein and the 1st respondent transferred the complaint to the District Crime Branch for registration of Complaints and Investigation. The complaint given by the petitioner herein has been registered by the 2nd respondent District Crime Branch in Crime No.11/2006, under Sec.409, 477A, 466, 471 and 109 of IPC and the case is under investigation.

4. The enquiry conducted so far revealed that the respondents 4 to 7 herein has committed fraud of Rs.57,43,394/- in 63 MIS/TD Accounts, Rs.14,60,000/- - 146 Kisan Vikas Patra (KVP) Certificates and Rs.10,000/- in SB Accounts. Since, the amount involved is huge it was decided to hand over the case to

the Central Bureau of Investigation and a complaint was lodged on 26.07.2016 with the 3rd respondent Central Bureau of Investigation, Anti Corruption Branch, Chennai. The 3rd respondent Central Bureau of Investigation, Anti Corruption Branch has registered a case in RC MA1 2016 A 0022 on 26.07.2016 and investigation is in progress.

5. The learned Additional Public Prosecutor for the 1st and 2nd respondents would submit that the Accused N.P.Saravanan/A-1/R-4 working as Sub-Post Master in Sivagiri Post office, during his tenure from 30.05.2014 to 07.06.2016 has misappropriated the amount deposited by the public in the said branch post office under various schemes to the tune of Rs.3,45,000/- in collusion with other accused/A-2 to A-4/R-5 to R-7 viz., Postman-Tr.Mayilsamy/R-5; Thandampalayam Branch Officer Tr.R.Subramaniyan/R-6 and Minnappalayam Branch Postman – R.Karithikeyan/R-7, by way of closing the accounts of victims, who are Account holders, without their knowledge by putting their signature and also not accounted in the accounts book and swindled the same.

6. Further, he would submit that during the course of investigation, the petitioner has lodged a complaint in Central Bureau of Investigation, Anti Corruption Branch, Chennai on 26.07.2016 and a case was registered in Case No.RC.MA 1 2016 A 0022 under sections 120(B) r/w 420 I.P.C. 468, 468 r/w 471, 477 (A) I.P.C. And 13(2) r/w 13(1) (d) of the Prevention of Corruption Act 1988 against Saravanan/A-1; Mayilsamy/A-2, R.Subramanian/A-3 and R.Karthikeyan/A-4 and the same is under investigation.

7. The learned Special Public Prosecutor for the 3rd respondent would submit that a case in RC MA1 2016 A 0022 U/s 120(B) r/w 420 IPC, 468, r/w 471 IPC and 13(2) r/w 13 (1) (d) of the Prevention of Corruption Act, 1988, was registered against A-1 : Shri N.P. Saravanan, S/o. Late Ponnusamy, the then Sub-Post Master, Sivagiri Sub-Post Office, now Postal Assistant (Under Suspension), Kodumudi SO. A-2 : Shri N.Mayilsamy, S/o.Shri Natchimuthu, Gramin Dak Sevak Mail Deliverer, Sivagiri SO.A-3 : Shri R.Subramanian, S/o.Shri Rama Naicker, Gramin Dak Sevak, Branch Post Master, Thandampalayam Branch Post Office A-4: R.Karthikeyan, S/o. Shri Ramasamy Gramin Dak Sevak Mail Deliver, Minnapalayam branch Post office and unknown others and entrusted to him for investigation of the case. The FIR is pending before the Learned Special Judge for CBI cases, Coimbatore.

8. Further he would submit that this case has been registered based on the complaint preferred by the Petitioner

who has filed it with CBI, in accordance with Prevention of Corruption Act, wherein in any offence by Public Servant of Government of India will be investigated by the Central Bureau of Investigation. The CBI case pertains to the fraud by A-1, M.Saravanana, A-@ N.Mayilsamy, A-3, R.Subramanian, A-4 R.Karthikeyan and others to an extent of Rs.72 lakhs. Based on the registration of the case, searches were conducted at the residential premises of Shri N.Mayilsamy (A-2), Shri R.Subramanian (A-3) and Shri R.Karthikeyan (A-4) and the investigation of the case is in the initial stage.

9. The learned counsel for the respondents 5 to 7 would submit that 4th respondent has already given his statement admitting his guilt and therefore respondents 5 to 7 have nothing to do with this case and they have to be relieved from this case.

10. Heard the counsel for the parties. On perusal of the records and considering the submission made by the counsel for the parties, it is clear that there was a fraud in the Postal Department and also a complaint filed. In this regard, already a case was registered in Crime No.RC MA 1 2016 A 0022 pending on the file of Central Bureau of Investigation and yet another complaint was given in which investigation was conducted by the 3rd respondent. Since the offence are same in nature and the accused are same in both the cases, in the interest of the justice, the present case in Crime No.11/2016 on the file of the District Crime Branch, Erode to be investigated along with Crime No.RC MA 1 2016 A 0022 is required to be transferred as prayed for. By allowing this petition, no prejudice would be caused to any one, including the investigation agency namely Central Bureau of Investigation. It is needless to mention that if two agencies are permitted to continue investigation in identical case, there will a conflict of opinion. In the above circumstances, I am inclined to allow this petition. Accordingly, the petition stands allowed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Superintendent of Police,
   Erode,
   Erode District.

2. The Inspector of Police,
   District Crime Branch,
   Erode,
   Erode District.

3. The Inspector of Police,
   Central Bureau of Investigation,
   Anti-Corruption Branch,
   Chennai.

4. The Public Prosecutor,
   High Court, Madras.

+1cc to Mr.V.P.Sengottuvel, Advocate, S.R.No.62917
+1cc to Mr.K.Srinivasan, Advocate, S.R.No.62367
+1cc to Mr.P.Kannankumar, Advocate, S.R.No.63505

Criminal O.P.No.22482 of 2016

NRJK(CO)
CA(23/11/2016)